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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,874	07/11/2005	Angelo Benvenuti	6575/PCT	7897
6858	7590	08/14/2008	EXAMINER	
BREINER & BREINER, L.L.C. P.O. BOX 320160 ALEXANDRIA, VA 22320-0160			LEE, LAURA MICHELLE	
			ART UNIT	PAPER NUMBER
			3724	
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			08/14/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/541,874	BENVENUTI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LAURA M. LEE	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 April 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,4-13,15-26 and 44-47 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4-13,15-24,26,44-47 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. This office action is in response to the amendment filed on 4/29/2008 in which claims 1-2, 4-13, 15-26, and 44-47 are pending, claims 45-47 are new and claims 1, 2, 4, 9-11, 20 are currently amended and claim 25 is withdrawn.

### ***Response to Arguments***

2. Applicant's arguments filed 4/29/2008 have been fully considered but they are not persuasive. The applicant contends that Wierschke does not disclose cyclical variations in the speed of pads, 27 and 28 nor that the products are in contact with and supported by the contact members of the flexible member and by the supporting element. However, it is noted that col. 5, lines 7-12 and lines 29-36, recite structure of a phaser and servo motor to adjust the vacuum belt relationship to the front or downstream end of the log and the first cut position changes via difference in trim or roll length and also that the trim eliminator velocity is adaptable as it shares a common drive with the infeed conveyor which uses velocity changes between logs or rolls to match lengths of the belts systems with the infeed conveyor length. Secondly other structure can be considered the supporting element such as one of the three conveyors (24-26) or the supporting rails, 14, or infeed conveyor, 18

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4-13, 15-19, 24, 26, and 45-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Wierschke (U. S. Patent 5,458,033). In regards to claims 1, 45 and 46, Wierschke discloses a device (Figure 2) to eliminate trimmings or scraps from series of products comprising at least one continuous movable flexible member (i.e. at least one of belts, 24/25/26) carrying a series of contact members (i.e. pads, 27/28) for the products (R) aligned with one another, a section of said movable flexible member (4) being devoid of said contact members (see Figure 2, not numbered) to allow trimmings (Au, Ad) to fall (Figures 8A-8L); at least one longitudinal supporting element (i.e. rails, 15a/15b or trough means, rails 14, or another of the belts, 24 or 25 or 26) for the products, parallel to said movable flexible member (i.e. 24/25/26), a reciprocal position of said flexible member and of said longitudinal supporting element being such that the products advance in contact with and supported by the contact members (i.e. 27/28) of the flexible member and with the longitudinal supporting element (i.e. 15a/15b or 14 or one of 24/25/26); at least one pusher (pusher, 17) to insert the series of products (R) with respective trimmings (Au, Ad) between said flexible member (i.e. one of 24/25/26) and said longitudinal supporting element (i.e. 15a/15b or 14 or another of 24/25/26); wherein said flexible member (i.e. one of 24/25/26) is controlled with a cyclically variable speed (servo drive, 31 and maser phaser, 34, see col. 4 lines 46-63 and col. 5, lines 29-36, ) to carry the section thereof devoid of contact members every

time to the level of the tail and head trimmings (Au, Ad) of two consecutive series of products (R) (col. 5, lines 6-35);

Wherein such that every time a new series of products is introduced into the device, said section of flexible member devoid of contact members is capable of being phased with positioning of tail and head trimmings of two consecutive series of product (via servo drive, 31 and maser phaser, 34, see col. 4 lines 46-63 and col. 5, lines 29-36)

Wherein at least one of said contact members is constructed and arranged to cyclically mechanically grip and release at least a last product of said series of products (see col. 6, lines 8-15).

In regards to claim 2, Wierschke discloses that the longitudinal supporting element (fixed supporting rails, 14) is stationary. It is also noted that one of the belts 24/25/26 is stationary in the direction perpendicular to the roll conveying direction.

In regards to claim 3, Wierschke disclose that said continuous flexible member (i.e. 24/25/26) has at least one first contact member (i.e. a first foraminous portion of 27/28) designed to grasp at least a last product (Ru) of each series and make the last product advance. (Figure 8A-8L)

In regards to claim 4, Wierschke discloses wherein said continuous flexible member (i.e. one of 24/25/26) has at least one second contact member (i.e. a second foraminous portion of 27/28) designed to grasp at least a first product of each series (Rd) and make the first product advance. (Figure 8A-8L).

In regards to claim 5, Wierschke discloses wherein at least some of the contact members (i.e. 27/28) are provided with a contact surface for the products having a low

friction coefficient (low is a relative term), to allow said products to slide with respect to said at least one longitudinal supporting element (15a/15b).

In regards to claim 7, Wierschke discloses wherein said flexible member (i.e. one of 24/25/26) is controlled at a variable speed to accelerate, at least a last product of each series with respect to the pusher (17) threrebehind (col. 7, lines 25-35)

In regards to claim 7, Wierschke discloses wherein said flexible member (i.e. one of 24/25/26) is controlled at a variable speed to accelerate, and optionally subsequently decelerate at least a first product of each series with respect to a subsequent product (col. 4, lines 48-50; col. 7, lines 25-35)

In regards to claim 8, Wierschke discloses wherein said flexible member (i.e. one of 24/25/26) is controlled to advance at a lower speed or to stop during an interval of time between arrival of a first product and arrival of a last product of each series, during said interval of time the products being pushed by said pusher (17) and sliding along the flexible member (i.e. 24/25/26) resting on the contact members (15a/15b).

In regards to claim 9, Wierschke discloses wherein one or more of said contact members (i.e. 27/28) disposed at each end of a series of contact members carried by the flexible member (i.e. 24/25/26), adjacent to said portion of the flexible member devoid of contact members, can be operated to have a grasping effect of the products (R) in contact therewith (see Figures 8A-8L).

In regards to claim 10, Wierschke discloses wherein said contact members (alternatively mechanical fingers; see col. 6, lines 8-15) deigned to grasp said products (R) are mounted movable (pinching direction), with respect to the flexible member which

carries the contact members at least in a direction essentially orthogonal to said flexible member.

In regards to claim 11, Wierschke discloses wherein the contact members (i.e. 27/28) designed to grasp the products have a movable portion. The whole contact member is a movable portion about the belts 24/25/26.

In regards to claim 13, Wierschke discloses wherein said flexible member (i.e. one of 24/25/26) and said longitudinal supporting element (15a/15b or 14 or one of 24/25/26) are arranged one above the other (see Figure 4/5 and Figure 7).

In regards to claim 15, Wierschke discloses wherein said flexible member (i.e. one of 24/25/26) is laterally staggered with respect to said longitudinal supporting element (15a/15b or 14 or one of 24/25/26).

In regards to claim 16, Wierschke discloses wherein said longitudinal supporting element (15a/15b or 14 or one of 24/25/26) is positioned under said flexible member (i.e. one of 24/25/26).

In regards to claim 17, Wierschke discloses wherein said flexible member (i.e. 24/25/26) is controlled to be accelerated synchronously with a position of said pusher (17), to distance a last product (Ru) of each series from the pusher there behind (col. 4, lines 48-50).

In regards to claim 18, Wierschke discloses wherein said flexible member (i.e. 24/25/26) is controlled to be accelerated synchronously with a position of said pusher (17), to distance a first product (Rd) of each series at least temporarily from a subsequent product (Figure 8B).

In/ regards to claim 19, Wierschke discloses wherein said flexible member (i.e. 24/25/26) includes a pair of parallel chains (belts, 24/25/26), one of said chains (24/25/26) being provided with a plurality of intermediate contact members (an intermediate foraminous portion of 27/28), said intermediate contact members being arranged in a laterally staggered position with respect to said longitudinal supporting element (15a/15b).

In regards to claim 24, Wierschke discloses wherein at least one of said first contact member or said second contact member designed to grasp said products includes jaws or pliers-shaped grasping members (alternatively mechanical fingers; see col. 6, lines 8-15).

In regards to claim 26, Wierschke discloses wherein said products are rolls (R) obtained from cutting a log (see abstract).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12, 20-23, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wierschke in view of Spencer (U.S. Patent 4,033,862).

Wierschke discloses that the contact members are comprised of a vacuum system, and as such does not disclose a system of contact members movable mounted orthogonal to the flexible member, acted on by a fixed control profile, comprised of shoes or jaw shaped grasping members. However, Wierschke does recognize that it is feasible to replace the vacuum aspect of the invention with random mechanical fingers in a short area on each of the two belt or chain systems per lane and still retain the new quick product variability (col. 6, lines 8-15). However, Wierschke does not provide detail as to the structure of the mechanical fingers. Attention is therefore directed to the Spencer device that discloses a similar apparatus for conveying wound rolls wherein defective rolls are discarded / allowed to fall away from the contact members or finger grippers. One having ordinary skill in the art would have recognized the applicability of utilizing the Spencer finger grasping members as anticipated by Wierschke to similarly grasp and transport the rolls along the conveyor.

Therefore, in regards to claim 12, the Wierschke device as modified by Spencer discloses wherein a fixed control profile (Spencer; cam followers 53/54) acts on said movable portions (Spencer, fingers, 31/32/33), an elastic element (Spencer; spring, 43) being provided to hold each of said movable portions (19) in contact with said fixed control profile.

In regards to claim 20, the Wierschke device as modified by Spencer discloses wherein said first contact member (Spencer grippers, 19) designed to grasp the last product (Ru) (see Wierschke Figures 8A-8L) of each series of products includes two

shoes (i.e. Fingers, 31/32/33) and means are provided to control a grasping motion of said shoes (i.e. cams followers 53/54, springs 43).

In regards to claim 21, the Wierschke device as modified by Spencer discloses wherein said second contact member (Spencer grippers, 19) designed to grasp at least the first product (Rd) of each series of products includes two shoes (i.e. Fingers, 31/32/33) and means are provided to control a grasping motion of said shoes (i.e. cams followers 53/54, springs 43).

In regards to claim 22, the Wierschke device as modified by Spencer discloses wherein the two shoes (i.e. Fingers, 31/32/33) of said first contact member are controlled by a fixed cam profile (cam followers, 53/4), which controls a closing motion of said shoes.

In regards to claim 23, the Wierschke device as modified by Spencer discloses wherein said flexible member (i.e. 24/25/26) includes a pair of parallel chains (i.e. 24/25/26 / Spencer 20/21), one of said chains being provided with a plurality of intermediate contact members (mechanical fingers, Wierschke col. 6, lines 8-15 / Spencer fingers 31/32/33), said intermediate contact members being arranged in a laterally staggered position with respect to the longitudinal supporting element (i.e. 15a/15b) and wherein each shoe of said first contact member is carried by a respective one of said chains (i.e. 24/25/26 / Spencer 20/21).

In regards to claim 44, the Wierschke device as modified by Spencer discloses wherein said flexible member (i.e. 24/25/26) includes a pair of parallel chains (i.e. 24/25/26 / Spencer 20/21), one of said chains being provided with a plurality of

intermediate contact members (mechanical fingers, Wierschke col. 6, lines 8-15 / Spencer fingers 31/32/33), said intermediate contact members being arranged in a laterally staggered position with respect to the longitudinal supporting element (i.e. 15a/15b) and wherein each shoe of said first contact member is carried by a respective one of said chains (i.e. 24/25/26 / Spencer 20/21).

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA M. LEE whose telephone number is (571)272-

8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura M Lee/  
Examiner, Art Unit 3724  
08/11/2008

/Boyer D. Ashley/  
Supervisory Patent Examiner, Art Unit 3724